

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:19-MJ-01077 KBM

DANIEL ARCHULETA,

Defendant.

DE NOVO APPEAL
FROM DETENTION ORDER

Defendant, Daniel Archuleta, by and through undersigned counsel, and pursuant to 18 U.S.C. § 3145, hereby appeals from the Order of Detention entered in this matter on June 18, 2019.

Accordingly, Defendant states as follows:

1. On April 29, 2019, Defendant was arrested and charged with Possession with Intent to Distribute 500 grams or more of meth and being a drug addict in possession of a firearm in violation of 21 U.S.C. 841(a)(1) and 18 U.S.C. 922(g)(3);

2. On April 29, 2019, Defendant appeared for a Preliminary/ Detention hearing; Defendant waived the Preliminary Hearing and was released to Pre-Trial Services and third party custody to his sister, Alicia;

3. Defendant provided a drug test upon release, and a second drug test on May 6, 2019;

4. On May 13, 2019, Defendant provided a urine sample that tested positive for opiates and the PTSO sent the results for a confirmation test;

5. In the interim, on April 29, 2019, shortly after the detention hearing, the Government filed its motion to reconsider the Court's release of the Defendant (Doc. 16);

6. The Defendant filed his full Response¹ and Subsequent Response on May 6, 2019 and May 10, 2019 (Docs. 17 & 18).

7. On May 20, 2019, the Court entertained a hearing on the Government's motion and the Defendant's Response; evidence was taken and, after a lengthy hearing, the Court denied the Government's motion and continued the Defendant's release. However, the Court noted that if the presumptive results of the May 13, 2019 drug test were in fact, positive, it would reconsider the motion;

8. On June 18, 2019, roughly five weeks after the May 13, 2019 urine test, the Court held a hearing on reconsideration of the Defendant's release; following argument of the parties, the Court revoked the Defendant's release and remanded Defendant into custody.

¹Note that Defendant filed an objection to the Government's motion due to its request not being in compliance with local rule.

9. The Court's ruling was based entirely on the May 13, 2019 urine test, despite the fact that the May 13, 2019 test was the only allegation of the Defendant's non compliance with conditions of release;

10. During the entire time of the Defendant's release, from April 29, 2019 to June 18, 2019, the Defendant had been in full compliance with all conditions including clean urine , attending weekly counseling with the Evolution Group, full time employment with a property management company, and residing with the third party custodian;

11. Defendant argues that Defendant should not have been remanded into custody and he should be re-released on conditions.

WHEREFORE, Defendant respectfully requests the Court reconsider its Order remanding the Defendant into custody and re-release him on conditions.

Respectfully submitted,

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FILED ELECTRONICALLY

By: /s/ Michael V. Davis
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I filed the foregoing document electronically through the CM/ECF system. Pursuant to the CM/ECF Administrative Procedures Manual, §§1(a), 7(b)(2), such filing is the equivalent of service on parties of record.

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/s/ Michael V. Davis
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